
Board Governance Policy Cross Reference: [1, 4, 12](#)

Administrative Procedures Cross Reference:

[Code of Conduct](#)

[Dispute Resolution](#)

[Respect for Human Diversity](#)

Form Cross Reference:

[Respondent's Response Statement](#)

[Statement of Complaint](#)

Legal/Regulatory Reference:

[Canadian Charter of Rights and Freedoms](#)

[The Human Rights Code \(Manitoba\)](#)

[Workplace Safety and Health Act](#)

The Interlake School Division (ISD) believes in the rights of all members of the school community to work and learn in environments that value and demonstrate respect for human rights and freedoms in accordance with the provisions of [Canadian Charter of Rights and Freedoms](#), [The Human Rights Code \(Manitoba\)](#), the [Workplace Safety and Health Act](#) and the [Respect for Human Diversity](#) Administrative Procedure.

The Division affirms its obligation as an employer to provide learning and working environments free from harassment. The Division requires employees, students, parents, volunteers and all visitors to conduct themselves in a manner which promotes and protects the best interests and well-being of students, staff and others.

A. Legislative Context

1. [Canadian Charter of Rights and Freedoms](#)

The *Constitution Act [1982]*, which includes the Canadian Charter of Rights and Freedoms, is the supreme law of Canada. As such, all other laws and applicable workings of governments, including school boards, must be consistent with its provisions. The Charter and Supreme Court of Canada decisions made under the Charter guarantee everyone equality regardless of race, national or ethnic origin, citizenship, colour, religion, marital status, sex, sexual orientation, age, or mental or physical disability. The Charter and Supreme Court decisions also promote the development of programs designed to redress the conditions of disadvantaged individuals or groups.

2. [Human Rights Code \(Manitoba\)](#)

The Human Rights Code of Manitoba recognizes the individual worth and dignity of every member of the human family, and this principle underlies the *Universal Declaration of Human Rights*, the *Canadian Charter of Rights and Freedoms*, and other solemn undertakings, international and domestic, that Canadians honour.

B. Rights and Responsibilities

It is the responsibility of all members of the Interlake School Division school community (employee, student, volunteer, parent and trustee) to build an environment of trust and mutual respect which protects the rights of each individual to be free from harassment.

The Interlake School Division will ensure, so far as reasonably practicable, that no employee is subject to harassment in the workplace. Employees, students, parents, volunteers and visitors shall be informed about the procedures to follow should they experience harassment.

It is important that Division and site-based administrators work with employees, students, volunteers and parents to build an understanding that harassment undermines the dignity and mutual respect of individuals in the school system, threatens personal well-being and performance, and will not be tolerated.

The ISD will strive to:

- maintain an environment of acceptance within the organization;
- take reasonable steps to ensure the removal of any barriers to acceptance in employment policies and practices and to access of programs, resources and facilities;
- provide positive role models;
- support individuals who are, or have been, targets of harassment and/or discrimination.

Supervisory managerial personnel and school administrators have a specific duty to implement this procedure. This responsibility includes support of a culture of acceptance, response to harassment and/or discrimination, and the education of staff, students and the school community.

Teachers have a particular obligation to ensure that the learning environment promotes acceptance for all people.

Employees, students and parents can support learning and working environments of acceptance. They should strive to prevent conduct injurious to the welfare of these environments and thereby preserve respectful partnerships.

- Employees and students are entitled to work and learn free of harassment.
- Employees and students have the responsibility to treat each other with respect.
- Employees and students have a responsibility to co-operate in the investigation of a harassment complaint.
- Employees and students have the right to file a complaint with the [Manitoba Human Rights Commission](#). If the complaint is sexual assault, victims are encouraged to seek immediate medical attention and file a complaint with the police.
- Employees and students have the right to file a complaint with Manitoba's [Workplace Safety and Health Division](#).
- The Interlake School Division's procedure on Harassment is not intended to discourage or prevent complainants from exercising any other legal rights pursuant to any other law.

C. Definitions

Harassment - consistent with the [Human Rights Code](#) (Manitoba), harassment is defined as any one or more of:

1. A source of abusive and unwelcome conduct or comment made on the basis of the following:
 - (a) ancestry, including colour and perceived race;
 - (b) nationality or national origin;
 - (c) ethnic background or origin;
 - (d) religion or creed, or religious belief, religious association or religious activity;
 - (e) age;
 - (f) sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
 - (g) gender identity;
 - (h) sexual orientation;
 - (i) marital or family status;
 - (j) source of income;
 - (k) political belief, political association or political activity;
 - (l) physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device; and/or
 - (m) social disadvantage.

2. a series of objectionable and unwelcome sexual solicitations or advances; or
3. a sexual solicitation or advance made by a person who is in a position to confer any benefit on, or deny any benefit to, the recipient of the solicitation or advance. If the person making the solicitation or advance knows, or ought reasonably to know, that it is unwelcome; or
4. a reprisal or threat of reprisal for rejecting a sexual solicitation or advance.

In addition to the characteristics defined in the Human Rights Code (Manitoba), the Division also recognizes:

5. a course of abusive and unwelcome conduct or comment undertaken or made on the basis of medical circumstances or illness as harassment; and
6. retaliation against an individual who:
 - a) invokes the procedure;
 - b) participates or cooperates in an investigation under the procedure; or
 - c) associates with a person who invokes the procedure or participates in the complaint procedure.

Note: See Appendix A for further explanation and examples of forms of harassment.

Complainant - refers to the person who believes that he/she is being harassed and has filed a complaint with an administrator/supervisor of the School Division.

Respondent - refers to the person against whom the complaint has been made.

Workplace - refers to any place where individuals perform work, or work-related duties or functions for the Interlake School Division. This includes, but is not limited to:

- a) at a school, the Division office, or other Division facilities;
- b) outside of a school or the Division office;
- c) at a school or Division sponsored function;
- d) in the course of an employment or school assignment outside of a school or the Division office;
- e) at an employment or school-related conference or training session;
- f) during employment or school-related travel; and
- g) while utilizing a communication medium (e.g. Internet, text message, email, telephone, mail).

D. What Constitutes Harassment?

Harassment has four basic elements:

- a) it is a type of discrimination;
- b) it is unwanted;
- c) it affects the individual's ability to learn and/or work;
- d) it is an expression of power, authority or control, and is coercive in nature.

Reasonable actions by administrators or supervisors to help manage, guide, or direct workers or the workplace are not harassment. Appropriate employee performance reviews, counseling, or discipline by an administrator or manager is not harassment.

E. Harassment Complaint Procedures

Employees and students have the right to take assertive action should they encounter harassment in the learning or working environment. They have the right to expect confidentiality and have a reasonable degree of privacy as the matter is resolved. Every effort must be made to ensure the safety of all parties involved once a complaint has been made. If any member of the school community believes they are being harassed, they should follow the procedures set forth below. The Division will not disclose the name of the complainant or the circumstances which give rise to the alleged harassment unless an investigation necessitates such disclosure.

1. Informal Resolution

- a) When an individual feels that he/she has been harassed and is comfortable doing so, he/she is encouraged to advise the alleged harasser that the behavior is unwelcome and should stop. If the complainant is satisfied with the outcome, the process may be considered resolved at this stage.
- b) If this approach does not stop the unwelcome behavior, or when a complainant feels unable or is unwilling to use this approach, the individual is encouraged to approach their direct supervisor/ manager or school administrator (unless the supervisor/manager or school administrator is the alleged harasser in which case the Complainant may contact the Human Resources department directly and/or notify the Superintendent/CEO or designate under Step 2).
- c) Those who feel they are being subjected to harassment are encouraged to keep a written log of all incidents, including dates, times, other individuals in the area, and detailed description of all events.

2. Supervisor/Manager/School Administrator Assisted Resolution

- a) While the Division recognizes that it will often be difficult to come forward with a complaint of harassment, it encourages all employees and students to do so. The Complainant may contact their direct supervisor, manager, school administrator or teacher or guidance counselor in the case of students (unless that person is the alleged harasser in which case the Complainant may contact the Human Resources department and/or notify the Superintendent/CEO or designate or school Principal in the case of students).
- b) The person to whom a complaint of harassment is made under this procedure shall provide guidance and advice to the Complainant.
- c) The Complainant should be directed to complete a [Statement of Complaint](#). Complaints ought to include where possible:
 - i. the name and position of the alleged harasser;
 - ii. as many details as possible about the conduct or comments;
 - iii. the frequency of the conduct or comments;

- iv. where the conduct/comments occurred;
- v. the name of any witnesses to the conduct/comments, if any;
- vi. how the complainant responded to the conduct/comments; and
- vii. whether the alleged harasser made and/or carried out any threats or promises in connection with the conduct/comments.

Where the person subjected to the alleged harassment is a student, the student may choose to be assisted by an adult (parent(s), teacher, counselor, minister, priest, etc.), in the preparation of such a complaint. Complaints may be made orally or in writing. If made orally, the site-based administrator will prepare a written summary of the complaint for signature by the complainant.

- d) Within two (2) working days of the receipt of a written complaint alleging harassment, the site-based administrator shall meet independently and/or collectively with the person alleging harassment and the alleged offender for the purpose of obtaining an understanding of the facts and such clarification as may be deemed necessary.

If the alleged offender is an employee, the supervisor will remind the employee that they have the right to due process, as defined in the applicable collective agreement or Labour Relations Act, including the right of representation.

Subsequent to the investigation of the facts, the site-based administrator may:

- i. dismiss the complaint; or
 - ii. endeavour to resolve the matter through mediation and/or conciliation;
 - iii. take disciplinary action as warranted, including suspension if a student is involved; or
 - iv. recommend further action be taken.
- e) In any case, if not informed in d) above, the Respondent shall be informed of the allegations against him/her and be given an opportunity to respond using the [Respondents Response Statement](#) form. How this information is relayed shall be determined by the supervisor/manager/school administrator, in consultation with the Complainant.
 - f) If the Complainant so requests, the supervisor, manager, school administrator, or other individual approached herein, may provide assistance to the Complainant in approaching the Respondent and requesting that the offensive behavior stop. This individual and the Complainant will jointly determine how best to approach the Respondent. Where the person subjected to alleged harassment is a student, the student may choose to have another adult (parent(s), teacher, counselor, minister, priest, etc.) in attendance. Where the person subjected to alleged harassment is an employee, the employee may wish to request the presence of a witness. Any of the parties may choose to be represented by legal counsel.
 - g) Interventions to achieve a resolution at this stage may take, but shall not be limited to, any of the following forms:
 - i. meeting with the parties to discuss the matter and set expectations for future behavior, and/or;
 - ii. referral to counseling/education on harassment and sensitivity issues, and/or;

- iii. a written apology and commitment by the Respondent to treat the Complainant with respect and dignity at all times in the future.
- h) Those to whom harassment is reported shall keep a confidential written account of all information they receive in conjunction with a complaint (this will include the [Statement of Complaint](#), a copy of which will be submitted to the Human Resources department).
- i) If a supervisor, or school administrator-assisted resolution between the parties is successful, this process terminates at this stage (a copy of the resolution shall be sent to the Human Resources department).
- j) If the supervisor, manager, or school administrator assisted resolution is not acceptable, or if the complaint is not appropriate for informal resolution, it will be forwarded to Step 3 – Investigation within two working days.

3. Investigation

It is assumed that anyone who has a complaint of harassment has attempted (where applicable) to resolve the complaint prior to the Investigation stage. However, this shall not deter any individual who feels they are being harassed from issuing a complaint directly to the Human Resources department. In these cases, it is asked that the Complainant submit the Statement of Complaint form directly to the attention of the Human Resources department (marked Confidential) or deliver the form in person.

- a) Upon receipt of a complaint, Human Resources will, within two working days, make a determination whether the complaint establishes a case of harassment. The Human Resources department in making this determination will ask the following question: Does the Respondent know, or should they reasonably know, that their behavior towards the Complainant is unwelcome?

Generally, this will result in the one of the following findings:

- i. that harassment as per the Harassment procedure is established on its face by the facts and circumstances raised, and the complaint shall proceed to investigation;
- ii. that the facts and circumstances on their face do not demonstrate a case of harassment as per the Harassment procedure, but there is evidence of workplace conflict which must be addressed through more appropriate methods; and/or
- iii. that the facts and circumstances on their face do not demonstrate a case of harassment as per the Harassment procedure, and no further action is required.

Notwithstanding the timelines within these procedures, the Human Resources department may direct that a complaint be referred to any previous steps in the Harassment procedure.

- b) The Human Resources department shall appoint two or more investigators to investigate the complaint. The Investigation Committee will usually consist of the Complainant's supervisor and a trained Human Resources professional (if neither are parties to the complaint). An individual who has assisted with a complaint at a previous stage may not serve on the Investigation Committee dealing with the same complaint.

The Human Resources department will determine the parameters of the investigation and the committee will report on the progress of their investigation as required.

- c) The Investigation Committee shall conduct and complete its investigation within a maximum of twenty working days from the date the Investigation Committee was struck.
- d) The investigation shall include, at a minimum, the following components:
 - i. a meeting with the Complainant to review the Statement of Complaint and to seek any such clarification as needed;
 - ii. a meeting with the Respondent for the purposes of communicating the allegation and receiving the Respondent's version of events (which may be requested in writing);
 - iii. collection of all relevant evidence; and
 - iv. interviews with and/or receipt of written submissions from all witnesses the Investigative Committee considers to be material.
- e) The Investigative Committee shall prepare a Report setting out its findings and/or recommendations within a reasonable period (normally twenty working days from the date the Investigative Committee was struck).
- f) The Investigative Committee shall release their report to the Human Resources department, the Complainant, and the Respondent. Generally, the findings will be one of the following:
 - i. the complaint of harassment is not substantiated by the evidence;
 - ii. the complaint of harassment is not substantiated by the evidence but there are interpersonal conflict issues which need to be resolved through appropriate measures;
 - iii. the complaint of harassment is substantiated by the evidence; or
 - iv. the complaint of harassment is not substantiated by the facts and there is evidence that the complaint is frivolous, vexatious or made in bad faith.

The report shall also include, where applicable, any recommendations for corrective action in the workplace.

There may be instances where the Investigative Committee determines that a complaint has been both unfounded and motivated by malice. In such cases, the Human Resources department shall take any steps he or she deems appropriate.

- g) Within five working days of the receipt of the report, the Complainant and the Respondent shall respond to the report in writing in one of three ways:
 - i. they may accept the report (failure to act will be deemed acceptance of the report);
 - ii. they may make further written submissions in response to the report; or
 - iii. they may request a further meeting at which the investigators may hear further evidence and/or receive submissions on a defined and specific factual matter; or
 - iv. they may appeal the decision of the Investigative Committee to the Superintendent/CEO.

Note: At any time during the process, the Superintendent/CEO or designate shall be empowered to take interim action as may be deemed necessary with respect to the person allegedly harassed and the alleged offender, pending determination of the disposition of the alleged complaint.

F. Dispute Resolution

If the Complainant is not satisfied with the outcome of the investigation after appeal to the Superintendent/CEO, they may appeal to the Board of Trustees. See [Dispute Resolution](#).

G. Disciplinary and Rehabilitative Actions

Where a complaint of harassment is substantiated, disciplinary and/or rehabilitative action appropriate to the severity of the harassment will be assessed by the Human Resources department. Such action may include, but will not be limited to, one or more of the following:

- a formal apology;
- counseling and/or education on harassment;
- a written warning;
- suspension without pay;
- a disciplinary transfer;
- the discharge of the employee.

If the Respondent is a student, the [Code of Conduct](#) will be used to determine appropriate consequences.

H. Other Remedies Not Precluded

Notwithstanding the existence of this procedure, every employee of the Division continues to have the right at any time to file a grievance, seek assistance from the [Manitoba Human Rights Commission](#), seek redress under the [Criminal Code of Canada](#), or to seek any other statutory or civil remedy that may be available, whether or not steps are being taken under this procedure.

I. Confidentiality

All information provided by the complainant, including the name of a complainant, shall be kept confidential unless otherwise required by law, or necessary to investigate the complaint, or take corrective actions with respect to the complaint.

If the Complainant is a student or staff member, the information will not be placed in the Complainant's file unless the Complainant is found to be a frivolous or malicious complaint, or unless required by law.

Appendix A

Forms of Harassment

1. Sexual Harassment

Sexual harassment is any repeated and unwelcome sexual comment, look, suggestion, or physical contact that creates any uncomfortable working or learning environment for the recipient. It is made by a person who knows, or ought reasonably to know, that such attention is unwelcome. Sexual harassment may also be a single sexual advance particularly one by a person in authority, that includes or implies a threat and/or a reprisal after a sexual advance is rejected.

Some examples of sexual harassment are:

- a. unwanted, persistent or abusive sexual attention;
- b. sexually oriented behaviour or remarks which create an intimidating, hostile, or offensive learning or working environment;
- c. demeaning remarks based on gender;
- d. suggestive jokes about sex;
- e. sexually oriented verbal “kidding” or verbal abuse;
- f. inappropriate comments about clothing, physical characteristics, or activities;
- g. leering, ogling, and suggestive or insulting sounds;
- h. unwanted questions or comments about one’s private life;
- i. unwanted physical contact, such as brushing up against one’s body, patting, grabbing or pinching;
- j. sexual assault (an offence under the Criminal Code);
- k. subtle pressures for sexual activity;
- l. suggestions or demands for sexual favours;
- m. expressed or implied promise of reward for complying with a sexually oriented request;
- n. the display of pornographic and/or exploitative pictures, cartoons, and graffiti in the schools and on other school division premises. This includes pictures and/or messages on clothing.

2. Racial Harassment

Racial harassment occurs when words used or actions taken in an abusive or persistent manner by anyone is such that another person is disparaged or caused to feel humiliation because of her or his race, colour, creed, ancestry, place of origin, or ethnic origin. Racial harassment may be overt or subtle, explicit, or in a disguised form such as humour or joking.

Some examples of racial harassment are:

- a. slurs, gestures, name-calling, innuendoes or taunts about another’s racial or ethnic background;

- b. similar remarks about other racial groups made in the presence of another employee or student;
- c. unwelcome banter, “teasing” or jokes that are racially derogatory or present stereotypical portrayals of racial or ethnic groups;
- d. displaying racist, derogatory or offensive pictures, materials, or graffiti;
- e. refusing to study with, work with, or have contact with an employee, volunteer, or student in the work/school setting because of her or his racial or ethnic background.

The study of other cultures does not constitute racial harassment.

3. Other Forms of Harassment

Other forms of harassment include discrimination, (overt, subtle, and covert) on the basis of gender, sexual orientation, disability or economic/social status.

Some examples of other forms of harassment are:

- a. negative comments about the general unsuitability of an individual’s or a group’s educational or career goals to which they aspire; for example, generalizations about “women’s proper place” or lack of ability in particular areas;
- b. derogatory comments about an individual’s or a group’s moral, intellectual, economic, or social inferiority;
- c. taunting, teasing, criticizing, or demeaning remarks about individuals, or group members as a category;
- d. individual or group behaviour that is intimidating or threatening;
- e. stalking;
- f. unwanted or persistent invasion of personal space;
- g. bullying; or cyber bullying
- h. hazing.